

ORIGINAL

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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: **ECL** DEPUTY

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Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICK WALTON,

Defendant.

Civil No. **'08 CV 0839 IEG NLS**

COMPLAINT FOR MONEY DAMAGES

For its claim against defendant, the United States of America alleges:

1. This court has jurisdiction under 28 U.S.C. § 1345.

2. The defendant resides within the court's jurisdiction.

3. Defendant obtained student loans in the amount of \$8,000.00, which were insured by the U.

S. Department of Education ("DOEd") pursuant to 20 U.S.C. § 1071, et seq.

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MCL:jb/104

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1 4. Defendant defaulted and the original lender applied to a guaranty agency for reimbursement
2 of its guaranteed loans. On or about February 14, 1991, this claim was paid by the agency which
3 assumed all the lender's rights upon the insured loans. Thereafter, on or about September 14, 2006,
4 DOEd assumed all rights to the claim from the guaranty agency.

5 5. Pursuant to 34 C.F.R. § 682.202 and/or the terms of the promissory notes the holder(s)
6 capitalized accrued interest of \$2,065.79 thereby increasing the balance due to \$10,065.79 principal.

7 6. Although demand has been made, defendant has paid no part of the debt.

8 WHEREFORE, plaintiff prays for:

9 1. Judgment against defendant in the amount of \$10,065.79 principal, plus interest at 9.0 percent
10 per annum from September 29, 1990, to the date judgment.

11 2. Interest after judgment at the then-current legal rate, compounded annually until paid in full,
12 pursuant to 28 U.S.C. § 1961(b).

13 3. Cost of processing and handling this claim pursuant to 31 U.S.C. § 3717(e)(1).

14 4. Penalty charges pursuant to 31 U.S.C. § 3717(e)(2).

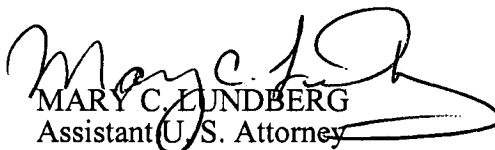
15 5. Filing fees allowed pursuant to 28 U.S.C. § 2412(a)(2).

16 6. Costs of suit.

17 7. Such other relief as the court deems proper.

18 DATED: 5-8-08

KAREN P. HEWITT
United States Attorney

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21 MARY C. LUNDBERG
Assistant U.S. Attorney
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CIVIL COVER SHEET

ORIGINAL

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the users of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

PATRICK WALTON

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

San Diego, CA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(c) ATTORNEYS (Firm name, Address, and Telephone Number)

Karen P. Hewitt, U.S. Attorney
Mary C. Lundberg, Asst. U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
(619) 557-7157

ATTORNEYS (IF KNOWN)

(See Attachment)

DEPUTY

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☒ 1. U.S. Government Plaintiff ☐ 3. Federal Question (U.S. Government Not a Party)
☐ 2. U.S. Government Defendant ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP FOR PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Case Only)

- | | PT | DEF | | PT | DEF |
|-----------------------------------------|----------------------------|----------------------------|--------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated of Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated of Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Default Student Loans (Exclude Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employer's Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury Medical Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 520 Other Food Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR and Truck <input type="checkbox"/> 650 Airline Regulations <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standard Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting and Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyright <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organization <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agriculture Acts <input type="checkbox"/> 892 Economic Stabilization Acts <input type="checkbox"/> 893 Environment Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Action
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Erection <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Right	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus and Other <input type="checkbox"/> 550 Civil Rights		

V. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. 1345; Title IV-B of the Higher Education Act of 1965, as amended 20 U.S.C. 1071 et Seq. (34 CFR. Part 682)

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

- ☒ 1. Original Proceeding ☐ 2. Removal from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from another district (specify) ☐ 6. Multi-district Litigation ☐ 7. Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS CLASS ACTION UNDER f.r.c.p. 23 ☐ DEMAND \$10,065.79

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See Instructions) JUDGE

DATE 8/26/2003

SIGNATURE OF ATTORNEY OF RECORD

Mary C. Lundberg, Asst. U.S. Attorney